47th Annual Report
Covering the Licence-year Ended
February 28, 1987

Annual Report of the
Motor Carrier Commission

Pursuant to Section 34
of the Motor Carrier Act

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VANCOUVER, BRITISH COLUMBIA

To His Honour the Lieutenant Governor in Council
of the Province of British Columbia

MAY IT PLEASE YOUR HONOUR:

SIR: We respectfully transmit herewith the Forty-seventh Annual Report, pursuant to the provisions of section 34 of the *Motor Carrier Act*, covering the licence-year ended February 28, 1987.

MOTOR CARRIER COMMISSION

GERARD M. MORRIS, *Acting Chairman*

IAN W. CRAIG, *Commissioner*

GEORGE MUSSALLEM, *Commissioner*

REPORT OF THE MOTOR CARRIER COMMISSION, 1986/87

THE COMMISSION

The present members of the Motor Carrier Commission are Acting Chairman Gerard M. Morris, Commissioner Ian W. Craig and Commissioner George Mussallem. They are appointed pursuant to section 31 (1) of the *Motor Carrier Act* which reads as follows:

> The Commission known as the Motor Carrier Commission is continued. The Commission shall consist of not more than 3 persons appointed by the Lieutenant Governor in Council, who hold office during pleasure.

GENERAL

The Motor Carrier Commission derives its authority from a provincial statute, the *Motor Carrier Act*, and under delegation from the Government of Canada pursuant to a federal statute, the *Motor Vehicle Transport Act*.

The primary duty of the Commission as specified in section 36 (1) of the *Motor Carrier Act* is

> . . . to regulate motor carriers with the objects of promoting adequate and efficient service and reasonable and just charges for it, and of promoting safety on the public highways, and of fostering sound economic conditions in the transportation business of the Province. The Commission may make investigations, inquiries, regulations and orders it thinks necessary for the carrying out of those objects.

This is accomplished through a system of licensing which has been in effect in this Province since 1939. Carriers who wish to transport either freight or passengers for compensation over the public highways of British Columbia, with few exceptions, are required to apply for licence authority. Such applications are filed with the Motor Carrier Branch, which arranges for their publication, assigns them to its staff for investigation, and finally forwards the applications, together with the reports thereon, to the Commission for adjudication. In some cases the Commission decides that further information is required before a decision can be made, and sets individual applications down for public hearings.

APPLICATIONS

The number of applications filed with the Commission continued to increase over past licence years, with a total of 4,008 being filed in 1986/87. Of these, 1,672, or 41.7%, were for additional vehicles, while 2,336, 58.3%, were for new authority, alteration to existing authority, or transfer of authority. With the exception of applications for additional vehicles, almost all applications generally require further investigation before being submitted to the Commission for decision.

HEARINGS

The Commission presided over a total of 62 hearings during the 1986/87 licence year, including 30 public hearings of applications for licence authority and 25 reviews of previous decisions. In addition, seven "Show Cause" hearings were held, five of them involving holders of limited passenger (taxi) vehicle licences, which resulted in substantial penalties being imposed, including suspension.

Although most of the hearings took place in the Commission's hearing room in Burnaby, B.C., and the reviews at its offices in Vancouver, a number were convened in other locations, including Victoria, Nanaimo, Duncan, Smithers and Kelowna, B.C.

Some of the most important decisions, findings and Orders of the Commission are attached in Appendix 'B' of this report.

REVENUE

The statement of revenue derived from permit and licence fees paid during the 1986/87 licence year and from other sources indicates a total revenue of $1,435,359, which was paid into general revenue. This amount is $91,491 more than the total revenue generated in the previous year.

Although there was a substantial increase in the number of charges for infractions of the *Motor Carrier Act* and Regulations laid by weigh scale personnel, a slight decline in revenues from fines to an estimated $225,000 was recorded.

Statistics on revenue, the number of permits issued, and a comparison of types of licences issued, are presented in Appendix A attached hereto.

CHANGES TO THE SYSTEM OF LICENSING AND RATE FILING

In an address to the annual meeting of the British Columbia Motor Transport Association in June, 1986, Mr. John Parks, MLA, Parliamentary Secretary to the Minister of Transportation and Highways, announced on behalf of the Minister, the Honourable Alex. V. Fraser, that the Motor Carrier Commission and Branch had changed their requirements and, effective immediately, were beginning to issue new and replacement licences without reference to the serial number of the truck to which the licence applies. He indicated that this was an action designed to provide "fleet" or "generic" licensing within the scope and framework of the existing *Motor Carrier Act*.

Mr. Parks then followed up by saying ". . . the Motor Carrier Commission has asked me to announce to you that they will now accept rate schedules from motor carriers of freight as filed. Carriers will still be responsible for ensuring that the documents contain the information as prescribed in the Regulations, and will continue to be required to charge only those rates contained within their filed tariff, but the Motor Carrier Branch will only examine the filed tariff in the event of action to ensure compliance rather than as a matter of course."

EXPO 86

Prior to the commencement of Expo 86, the Motor Carrier Commission was instrumental in the formation of a Motor Carrier Committee, including representatives from the transportation and hospitality industries, City of Vancouver, Ministry of Finance, Insurance Corporation of British Columbia, B.C. Transit, and the Expo 86 Corporation. The purpose of the Committee was to ensure that visitors to the Province during the Expo period, as well as our own citizens, would have available to them adequate transportation services, particularly those provided by buses and taxis.

As a result of the Committee's study, the Motor Carrier Commission permitted a 10% increase in fleet size for all Lower Mainland taxi companies for the duration of Expo and, in addition, issued special permits authorizing suburban taxi operators able to meet certain requirements to pick up at the various Expo gates.

MOTOR CARRIER BRANCH COMPLIANCE DEPARTMENT ACTIVITIES

The mandate of the compliance department of the Motor Carrier Branch is to secure compliance with the *Motor Carrier Act* and Regulations and Orders of the Motor Carrier Commission. The emphasis is placed on voluntary compliance rather than on penalties for non-compliance.

The activities of the compliance department include enforcement through participation in road checks with other agencies, investigation of complaints, and random audits of the activities of licensed motor carriers. The compliance department also provides training materials and assists in training of members of other enforcement agencies in motor carrier enforcement. During the 1986 licence year, a total of 165 complaint files was established by the compliance department.

The department participated with other enforcement agencies in a number of road checks, in which approximately 3,200 vehicles, including buses and taxis, were examined for roadworthiness, proper licensing, and correct documentation. As a result of those road checks, 181 charges were laid for infractions of various provisions of the *Motor Carrier Act* or Regulations.

TARIFF AND TIME SCHEDULES

Motor carriers licensed under the *Motor Carrier Act* are required to file rate schedules with the Commission and to abide by those rates in assessing charges for services provided. Time schedules and changes thereto must also be filed with and approved by the Commission in the case of licensed carriers operating over fixed routes on a time schedule.

The Commission does not regulate extra-provincial or international rates or schedules, although the authority to do so is delegated under the *Motor Vehicle Transport Act* of Canada.

The following table sets out the number of tariff and time schedule applications filed during the current licence year compared to previous years. (Figures indicate applications filed during the licence year ending in the month of February for each year specified).

	1983	1984	1985	1986	1987
Rate	444	336	278	272	172
Time	21	21	44	34	28

APPENDIX A

SUMMARY OF TOTAL REVENUE FOR THE LICENCE-YEAR 1986/87

	$
Licence fees	1,383,429
Temporary permits	29,414
Miscellaneous*	22,516
	1,435,359

* Miscellaneous revenue includes the sum of $13,940.21 assessed in costs and pecuniary penalties in lieu of suspension by the Motor Carrier Commission as a result of Show Cause hearings. In addition, various other amounts assessed by the Commission as costs are included, although not separately classified.

REVENUE—ANNUAL COMPARISONS

The following is a comparative table of gross revenues for the past five licence years:

Kind of Licence	1983/84	1984/85	1985/86	1986/87
	$	$	$	$
Passenger (buses)	134,563.61	145,278	165,686	164,480
Passenger (taxis)	114,563.62	125,279	147,517	147,922
Public and limited freight	871,945.30	900,291	981,984	1,071,027
Permits	21,633.70	17,703	28,769	29,414
Miscellaneous	62,966.45	72,627	19,912*	22,516*
Totals	1,205,672.68	1,261,178	1,343,868	1,435,359

* The reductions in miscellaneous revenue are the result of a change in accounting procedures recommended by the auditors, which more accurately identifies revenue from all sources.

TEMPORARY PERMITS

Permits grant temporary exemption from the *Motor Carrier Act* of the necessity of obtaining a licence (operating authority) or alteration of licence with respect to the operation of a vehicle in the manner stated therein. The holder of a temporary permit is subject to the safety provisions of the *Motor Carrier Act* and Regulations to the same extent as if he were operating a licensed vehicle. The issuance of permits is at the discretion of the Commission and allows for immediate response to be made to the requirements of trade and industry or the general public.

The following is a summary of the number of temporary permits issued during the year 1986/87:

Class II permits (for temporary operation as a public or limited vehicle not exceeding 92 days)	7,550
Class III and Class IV permits (for operation of a licensed public or a limited vehicle temporarily in a manner other than is authorized by the licence, or pending consideration of an application for licence, renewal, alteration, or transfer of a licence, etc.)	26,848
Special temporary permits (issued for the transportation of household goods to carriers from provinces having reciprocity agreements with the Province of British Columbia respecting commercial motor vehicle licences)	262
Expo 86 permits (authorizing suburban taxi operators to pick up fares at various Expo gates)	75
Expo 86 permits (buses)	552
Total	35,287

NUMBER OF LICENCES — ANNUAL COMPARISONS

The following table, by years, gives the number of licences for the various classes issued:

Kind of Licence	Number of Licences, New and Renewed			
	1983/84	1984/85	1985/86	1986/87
Passenger (buses)	2,246	2,191	2,131	2,095
Passenger (taxis)	2,388	2,228	2,284	2,270
Public freight	25,340	27,036	27,336	29,013
Limited freight	2,589	3,088	3,138	3,957
Totals	32,563	34,543	34,889	37,335

APPENDIX B

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

18-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 2127/84 of Canadian Freightways Ltd.

Before: GERARD M. MORRIS, *Chairman* and IAN W. CRAIG, *Commissioner*.

Dated the 4th day of March 1986.

ORDER

The application of Canadian Freightways Ltd., (the applicant), published as No. 2127/84, came before the Motor Carrier Commission on Monday, October 21, 1985, for hearing. The hearing continued for five days, was adjourned generally on October 25, 1985, and was reconvened by the Commission on December 6, 1985, to hear argument.

The applicant was represented by Counsel, Mr. Paul Sabatino, assisted by Mr. Ian Aikenhead, and the nine qualified objectors were represented as follows: Clark Reefer Lines Ltd. by Counsel, Mr. A. W. Basile; Vernon Moving & Storage Ltd. and Rocky Mountain Transport Ltd. by Mr. J. Chapman and Mr. G. Sengotta; TNT Canada Inc., Motorways (1980) Ltd., Byers Transport Ltd., Direct Transportation System Ltd. and CP Express and Transport Ltd. by Counsel, Mr. T. S. Robbins; and VanKam Freightways Ltd. by Counsel, Mr. R. W. Macdonald.

At the outset of the hearing Counsel for the applicant amended the Area to be Served section of the application to read: "From Kamloops delivered to points in Licence Districts 4, 5, 6 and 8; or vice versa." The application, if granted by the Commission, would enable the applicant to deliver general freight on a less than truckload Class III (non-scheduled) basis from Kamloops to the areas outlined above, or vice versa, restricted to freight which has been or is to be transported by the applicant under its Class I authority.

Mr. Sabatino called nine shipper witnesses, who described the service provided by the applicant as excellent, and said any claims were settled promptly. The witnesses stated that they would prefer to deal with one carrier, the applicant, in order to streamline their operations, rather than use the interlining system presently required because the applicant could not serve them directly.

The corporate witness, Mr. D. Kailly, president of Canadian Freightways Ltd., described the current operations of the company and the service it proposed to provide if it were granted the authority sought by this application. He stated that Kamloops is the hub of the transportation industry in the interior and the company still wants to build a terminal there, but land prices are too high at present. He described how the applicant would serve the interior by appointing agents in Kelowna, Penticton and Vernon, who would use trucks painted in CFL colours and be identified by the agent's name. He stated that the applicant sees a need for a general freight carrier in the Okanagan area and it wants to fill that need, thus providing improved daily service to Okanagan points.

The objectors were concerned that a Class I (scheduled) carrier (the applicant) was attempting to enter the Okanagan market on a Class III non-scheduled basis. They suggested that if the applicant was allowed to utilize the services of agents in the manner described, the objectors may be forced to close down their terminals in the Okanagan, or apply for a "me-too" authority. They felt that it would be unfair competition for a Class III (non-scheduled) carrier to compete with the objectors who provided a scheduled service and, in this case, if the application was granted, permit the applicant to "cream" the available business. The objectors asked that the application be denied in its entirety.

Before handing down its decision in this matter, the Commission wishes to make some observations with respect to the testimony and reference at a previous hearing to the stated intention of this applicant to construct a terminal facility in Kamloops if the application being heard at that time was granted.

The Commission notes that while the previous application was granted, the promised terminal facility has not been built, nor is it under construction, nor, at the time of this hearing, has the land for it yet been acquired.

The building of a terminal at Kamloops is seen as being a commitment which has not been fulfilled to this date, and the applicant can perhaps understand why the Commission has viewed further reference at this hearing to the construction of a terminal with some concern if not with outright scepticism.

Notwithstanding this concern, the Commission, after carefully taking into consideration all of the information before it, including that brought out at the hearing in the form of sworn testimony, exhibits filed and arguments delivered, has decided that the granting of additional authority is justified, although not in the manner of operation applied for.

The Commission has concluded that the applicant should only be granted the non-scheduled authority sought as a corollary to a Class I (scheduled) service.

Accordingly, the Motor Carrier Commission orders that the application of Canadian Freightways Ltd., published as No. 2127/84, as amended at the hearing, to provide a Class III non-scheduled service, be and it is hereby *refused*.

It is further ordered that the applicant, Canadian Freightways Ltd., be and it is hereby granted the following additional licence authority:

Part One of the applicant's Conditions of Licence are amended by adding thereto a new Route 11 as well as a new definition of termini and route points to be served and restrictions thereon, as follows:

Part 1

Route 11 (Transporting "general freight" restricted to pick up or delivery of freight which has been or is to be transported by Canadian Freightways Ltd. in accordance with authority contained in Route 1 of Part 1 of its Class 1 authority, being a service between termini Burnaby and the Interprovincial boundary near Crowsnest, Field or Yellowhead Pass), as follows:

Terminus	*Terminus*	*Route*
A. Kamloops	Hope	Via Highways 1 and/or 97 serving points on route such as Yale, Spuzzum, Boston Bar, Lytton, Savona.
B. Kamloops	Princeton	Via Highway 5 serving points on route such as Quilchena, Nicola, Merritt, Aspen Grove.
C. Kamloops	Osoyoos	Via Highways 1, 97 or 97B and 97A, and 97 serving points on route such as Falkland, Enderby, Armstrong, Vernon, Kelowna, Summerland, Penticton, and Oliver.
D. Kamloops	Revelstoke	Via Highway 1 serving points on route such as Monte Creek, Chase, Salmon Arm and Revelstoke.

DEFINITION OF TERMINI AND ROUTE POINTS

Add:

Hope
Keefer
Kelowna
Lytton
Merritt
Osoyoos
Penticton
Princeton
Revelstoke
Salmon Arm
Summerland
Vernon

These shall include the points named and territory lying within a distance of ten (10) roadmiles (16.093 km) from the boundaries of each.

RESTRICTIONS *RE* ROUTE 11, PART 1, SCHEDULED SERVICE

(1) Pick-up of freight in Licence Districts 4, 5, 6 or 8 for delivery in Licence Districts 4, 5, 6 or 8 is *not* permitted.

(2) Service to all subroutes must be daily, i.e. five days per week excluding statutory holidays.

(3) Service must be in accordance with filed time schedules.

Part Two, Clause One, of the applicant's Conditions of Licence are amended by the deletion therefrom of present Clause One in its entirety and the substitution therefore of a new Clause One, as follows:

Part 2

Commodities to Be Carried	*For Whom to Be Carried:*	*Area, District or Territory:*
1. General freight.	Any individual or company.	(a) Non-scheduled service over routes or combination of routes, with the exception of Route 11 or any part thereof, as described in Part 1 hereof, subject to full observance of Restrictions pertaining thereto. (b) Non-scheduled service over Route 11 or part thereof as described in Part 1 hereof, subject to full observance of Restrictions pertaining thereto.

The existing restrictions marked "B" attached to Route 1 of the applicant's Conditions of Licence are deleted therefrom and a new restriction marked "B" is substituted therefore as follows:

RESTRICTION B *RE* ROUTE 1

Eastbound: Freight shall only be picked up in Burnaby and/or Kamloops termini as defined herein and/or in points covered by Route 11, and deliveries shall only be made in the Kamloops terminus and/or to points covered by Route 11 and/or points east of the B.C./Alberta border.

Westbound: No freight shall be picked up in British Columbia except within the Kamloops terminus and/or from points covered by Route 11 and deliveries shall only be made in the Burnaby and/or Kamloops termini as defined herein and/or to points covered by Route 11.

Also: All freight routed through the Yellowhead Pass shall be via Highways No. 5 and 16.

No local service involving both pick-up and delivery of freight shall be rendered within the Kamloops terminus area.

In order to give the applicant ample opportunity to commence the additional service authorized by this decision, the Commission hereby waives the requirement of Regulation 6.02 to commence service within 30 days after which the authority was granted, and hereby extends that time to 90 days from the date of this Order.

It is further ordered that:

(a) the applicant forthwith submit to the Commission advice as to the status of the terminal proposed by the applicant to be built in Kamloops, B.C.;

(b) the applicant, within 13 months of the date on which service is commenced under the authority granted herein, will submit to the Commission a report as to the volumes generated by the new service, as well as the financial returns flowing therefrom (all of which data will be treated by the Commission on a confidential basis);

(c) the applicant and each of the qualified objectors named herein be and they are assessed $50 costs with respect to this hearing, which will be set off against the security deposits filed beforehand by them.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

51-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Futura Transport (1980) Ltd., Application No. 1816/85.

Before: G. M. MORRIS, *Chairman* and IAN W. CRAIG, *Commissioner*.

Dated the 28th day of April 1986.

ORDER

The application of Futura Transport (1980) Ltd. (the applicant), published as No. 1816/85, came before the Motor Carrier Commission for hearing in Victoria, B.C., on April 14, continued on April 15, and was concluded on April 16, 1986, in Vancouver, at which time argument was heard.

The applicant, which already has authority to provide a general freight service (excluding household goods) for one individual or company only at any one time *(truckload)* from the Victoria area to any point on Vancouver Island or Saltspring Island and to points in Licence Districts 14, 14A and 15 lying within 45 road miles from Vancouver City Hall, or vice versa, sought through this application to add thereto a new clause authorizing the movement of the same commodities between identical areas on a *less than truckload basis*, but with a restriction added thereto that no single shipment from one consignor to one consignee weigh less than five thousand pounds (2,268 kg).

The applicant was represented at the hearing by Counsel Mr. L. R. Peterson, Q.C. The three objectors present, Sidney Freight Ltd., CP Express and Transport Ltd., and Public Freightways Ltd., were represented respectively by company officials, Messrs. David J. Harwood, Bruce N. Smith and Dietmar Krause.

Mr. Peterson, in his opening address, indicated that the applicant company was taken over by the present owners and management in June of 1985 when it was experiencing serious financial difficulties. He noted that the company had done extremely well, but it was felt that additional authority was required in order to survive

and prosper under the present changing conditions. He advised that three applications, basically the same as the present one, had been filed previously without success, but that this was the first application filed under the new ownership.

Twenty-one witnesses were called by Counsel for the applicant, including nineteen shippers and two company officials. In addition, some forty-six letters of support were filed, including a number of them dated in 1984, which had been submitted as support for a previous application, and several from shippers who no longer required services.

One of the company officials, Mr. I. Wallace, testified under oath that some 90% of the shippers who submitted letters in 1984 were contacted by telephone and in that manner confirmed their continued support for the application.

The representatives of the qualified objectors present cross-examined the witnesses called by the applicant, took the stand themselves to give evidence, and presented argument at the conclusion of the hearing. Their common theme was that business is down, there is adequate service available, no evidence was given regarding problems with the present service, and the application should therefore be refused.

After considering all the evidence and testimony present, the exhibits filed, and the arguments made, the Commission makes the following Findings of Fact:

(1) The strong *viva voce* evidence presented by nineteen shipper witnesses indicated a need for additional service of the type proposed to be provided by the applicant;

(2) The shipper witnesses demonstrated a strong preference for, and loyalty to, the applicant, which they perceived to be a local Victoria-based carrier, and expressed a high degree of satisfaction with the quality of service provided;

(3) The applicant indicated that it had examined the needs of its Vancouver shippers to determine the volumes of freight available, and was satisfied that there was enough to make it a viable operation;

(4) The applicant already has the basic terminal facilities in place on the Mainland to immediately commence this type of LTL service;

(5) The granting of the application would enable the applicant to provide a more efficient service, and at the same time fill an apparent need;

(6) The weight restriction attached to the application would prevent the transportation, by the applicant, of shipments weighing less than 5,000 pounds. This would limit the quantity of freight available to the applicant and thus lessen to some degree possible detrimental effects the granting of the application would have on presently licensed carriers.

The Commission is of the view that a very strong case was presented by the applicant, and on the basis of these Findings of Fact has concluded that it would be in the public interest to grant the application.

Accordingly, the Motor Carrier Commission orders that the application of Futura Transport (1980) Ltd., published as No. 1816/85, be and it is hereby granted.

It is further ordered that the applicant and the qualified objectors named herein be and they are hereby each assessed costs in the amount of fifty dollars to be set off against the security deposits filed by them beforehand.

Approved by:

G. M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

59-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 2670A/85 of Jeffrey W. Wilson D/B/A J & C Bus Charters.

Before: IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 27th day of May 1986.

ORDER

The application of Jeffrey W. Wilson d/b/a/ J & C Bus Charters (the applicant), published as No. 2670A/85, came on for hearing before the Motor Carrier Commission in Victoria, B.C. on May 15, 1986.

The applicant, by this application, sought licence authority to provide a charter trip bus service, under contract to C.J.W. Travel Agency, from Victoria and twenty-five road miles therefrom to any point in B.C., and the B.C./U.S.A., or the B.C./Alberta Borders, and return if arranged for on the same charter.

The applicant was represented at the hearing by Counsel Mr. R. W. Macdonald. The qualified objectors: International Stage Lines Inc., Sybarite Investments Ltd. d/b/a Classic Limousine, Pacific Coach Lines (1984) Ltd., and the Gray Line of Victoria Ltd., were represented by company officials Messrs. P. Dakha, K. Bodnarchuk, W. Watson, and B. Bridges. Qualified objector Victoria Coach Lines Ltd. was also represented by a company official, Ms. P. Granoien.

Four witnesses were called by Counsel for the applicant, including three supporters, and a corporate witness, that being Mr. Jeffrey Wilson, President of the applicant company. In addition, a number of exhibits were filed, among them copies of invoices, newspaper clippings, and additional letters of support.

The three supporter witnesses each represented groups who had made use of the applicant's services by leasing its bus, and either providing a volunteer driver themselves, or having the applicant supply one. They expressed complete satisfaction with the vehicle provided and the manner in which the arrangements were made. Their current requirements for service were discussed, as well as the possibility of increased need for additional services in the future. Each of the witnesses stressed, in particular, the low rates charged by the applicant for the services provided.

Mr. Wilson, who is employed as a bus driver by Metro Transit in Victoria, also operates a corporately related travel agency, C.J.W. Travel Agency, which specializes in making travel arrangements for groups. Until recently that agency had been using a bus rented or leased from other companies, in most cases from one of the objectors present at the hearing. He related the difficulties he had encountered in some of the trips he had arranged, including delays, breakdowns, and stolen luggage, which is one of the reasons why he had purchased his own vehicle and filed the application presently under consideration.

The representatives of the qualified objectors, in presenting their cases, each testified as to their own particular concerns. Each acknowledged that excellent prospects for business existed during the Expo period, but expressed some concern as to what would happen when Expo had ended. Several of the objectors acknowledged considerable growth over the years and expansion of their fleets, particularly in recent times. They expressed the common view that no more charter bus licenses were needed at this time, and noted that a new licence had been granted by the Commission in the Victoria area very recently.

The Commission, in taking into consideration all of the information before it, including that presented at the hearing, notes first, that generally the objectors present have experienced reasonable financial growth and success, and second, that in many jurisdictions an application to provide services to a corporately related company, would either be granted automatically or would not require licensing. The Commission has concluded therefore, after due consideration, that the application ought to be granted.

Accordingly, the Motor Carrier Commission orders that the application of Jeffrey W. Wilson d/b/a J & C Bus Charters, published as No. 2670A/85, for two new Limited Passenger-vehicle Licenses, be and it is hereby granted, to be operated in the following manner.

Terminal Point:	626 Baxter Avenue, Victoria, B.C.
Nature of Proposed Transportation Service:	Charter trips only, transporting a person or group of people, under contract to C.J.W. Travel Agency, from Victoria and 40.28 km (25 miles) therefrom to any point in B.C., the B.C./U.S.A. Border or the B.C./Alberta Border while engaged in an extra-provincial undertaking and return if arranged for on the same charter.

The granting of this licence authority is subject to compliance by the applicant, beforehand, with the usual prelicensing requirements.

It is further ordered that the applicant and each of the qualified objectors named herein be and they are hereby assessed fifty dollar costs with respect to this hearing, which will be set off against the security deposits filed beforehand by them.

Approved by:

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

60-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of (a) Application No. 2815A/85 of St. George Transportation Ltd. and (b) Application No. 2816A/85 of Grassick Transport Ltd.

Before: GERARD M. MORRIS, *Chairman*, and Ian W. Craig, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 30th day of May 1986.

ORDER

The related applications of St. George Transportation Ltd. (St. George), published as No. 2815A/85, and Grassick Transport Ltd. (Grassick), published as No. 2816A/85, came before the Motor Carrier Commission for hearing in Burnaby, B.C., on May 21, 1986.

St. George, through its application, sought to "yield" a certain portion of its existing Clause No. 15, which Grassick by its application sought to acquire.

St. George's existing Clause No. 15 reads as follows:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
15. General Freight (charter trips)	One individual or company only at any one time.	Within the area comprising Vancouver and points situated within (15) fifteen road-miles (24.139 km) from its boundaries and also from points within this area described delivered to points within one hundred and fifty (150) road-miles (241.395 km) therefrom (including Vancouver Island); or vice versa.

If the two applications were granted, St. George would be left with a reduced authority Clause No. 15, reading as follows:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
15. General freight (excluding household goods and settler's effects) (charter trips)	One individual or company only at any one time.	Within the area comprising Vancouver and points situated within fifteen (15) road-miles (24.139 km) from its boundaries, and also from points within this area described, delivered to points within 150 road-miles (241.395 km) therefrom (excluding Vancouver Island) or vice versa.

and Grassick would have a new clause reading as follows:

General freight (excluding household goods and settler's effects) (charter trips)	One individual or company only at any one time.	From the area comprising Vancouver and points situated within fifteen (15) road-miles (24.139 km) from its boundaries delivered to points on Vancouver Island within one hundred and fifty (150) road-miles (241.395 km) therefrom; or vice versa.

The two applicants were represented at the hearing by principals of the companies involved, Messrs. Brian St. George and I. G. Grassick. The qualified objectors: Sidney Freight Ltd., Public Freightways Ltd., and Futura Transport (1980) Ltd. were similarly represented by company officials, respectively, Messrs. T. J. Harwood, D. Krause and R. Whitehorn.

The applicants, through their representatives, contended that the Commission was dealing with a standard yield and acquire application, many of which had been granted without the necessity of going to a public hearing, and on this basis, Grassick had purchased additional equipment. They held that the clause in question was, in reality, three separate clauses rolled into one, providing for service to three distinct and separate regions or areas, and should, in fact, have been granted originally as three separate clauses. They indicated that, in their opinion, the clause, if broken up, was still easily enforceable, each portion was economically viable, and therefore there was no reason why the applications should not be granted as filed.

The objectors argued that there was no precedent for splitting one existing clause into component parts, and that they opposed the applications on principle. They also felt that splitting the clause would have the

effect of introducing a new carrier into an already overcrowded, over-serviced lane of traffic, and asked that the application in question be refused.

The Commission, in view of the circumstances, gave most careful consideration to the information presented before making the following Findings of Fact:

(1) The applicants had considered their applications to be simple "yield and acquire" applications;
(2) One of the applicants, on this premise, had acquired additional equipment to carry out services which would be permitted if the yield and acquire applications were approved;
(3) As a general policy, the Commission is opposed to the splitting of individual clauses;
(4) In this particular situation, a Victoria-based carrier is attempting to acquire, through purchase, an authority which will permit it to serve Vancouver Island;
(5) This Victoria-based carrier had previously held similar authority, but because of economic and operational circumstances, had divested itself of that authority seven years' ago;
(6) Within that seven year period, the said applicant had sought to re-establish that authority by application, but the application had been refused;
(7) Granting the application would not introduce an additional carrier into the Victoria/Vancouver lane;
(8) The objectors could not demonstrate clearly that granting the applications involved would impair their operations to the detriment of the public interest.

The Commission has concluded, therefore, that while it will continue to consider the splitting of individual clauses to be an undesirable practice, there is sufficient justification in this particular case to grant the applications.

Accordingly, the Motor Carrier Commission orders that the applications of St. George Transportation Ltd. and Grassick Transport Ltd., published respectively as Nos. 2815A/85 and 2816A/85 be and they are hereby granted.

It is further ordered that the security deposits filed by the applicants and the three qualified objectors named herein be each assessed costs in the amount of $50 to be set off against the security costs deposited beforehand by them, but that the security deposit filed by Triangle Transportation and Warehouse Systems Inc., which failed for technical reasons to qualify, be refunded.

Approved by:
G. M. MORRIS
Chairman
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

72-86

In the Matter of the Regulations under the *Motor Carrier Act*.

GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 9th day of July 1986.

ORDER

In carrying out its duties, which include the promotion of reasonable and just transportation charges and of fostering sound economic conditions in the transportation business, the Motor Carrier Commission has, in the past, administered what might be described as "a rate filing system with rate schedules being subject to scrutiny and approval".

The Motor Carrier Commission hereby orders a change in this procedure with respect to freight rates. Effective immediately, rate schedules for freight transportation will be accepted *as filed*, and will no longer be subject to prior scrutiny and approval as a matter of course.

Pursuant to section 24 of the *Motor Carrier Act*, the Commission hereby grants its consent to the filing of amended rate schedules *effective thirty days* after such schedules are submitted by freight carriers to the Motor Carrier Branch. The Branch is not required to report such freight tariff changes to the Commission.

Licensed motor carriers are reminded that it is their responsibility to ensure that their rate schedules meet fully the requirements of the *Motor Carrier Act* and Regulations. Such schedules will only be examined by the Commission as part of an action to ensure compliance with the *Motor Carrier Act* and Regulations.

Licensed motor carriers are reminded, as well, that the Commission retains its powers pursuant to section 26 of the *Motor Carrier Act* to prescribe rates if it deems it to be in the public interest to do so.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

90-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review by the Motor Carrier Commission of its decision concerning the Application of Kits Cartage Ltd., published as No. 2347/85.

Before: IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 2nd day of September 1986.

ORDER

The application of Kits Cartage Ltd. (the applicant), published as No. 2347/85, which had been previously refused, came before the Motor Carrier Commission for review in Burnaby, B.C. on August 28, 1986.

The applicant was represented by Counsel, Mr. P. Sabatino. The two objectors present; Mercury Express Ltd., and Lester V. Moznik were represented, respectively, by company officials Messrs. J. Depiesse and D. Harnet.

The Commission, after considering the testimony given, the exhibits filed, and the arguments presented at the review hearing concluded that its previous decision ought to be varied.

Accordingly, in a decision rendered from the Bench at the conclusion of the hearing, the Commission advised those present that its previous decision in this matter of April 1, 1986 refusing the application of Kits Cartage Ltd., published as No. 2347/85, was rescinded, and the said application was granted as applied for.

The Motor Carrier Commission orders therefore, that its oral decision in this matter of August 28, 1986 be and it is hereby *confirmed*.

Approved by:
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

91-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Application No. 2448A/85 of Pioneer Express Ltd.

Before: IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 2nd day of September 1986.

ORDER

The application of Pioneer Express Ltd. (the applicant), published as No. 2448A/85, came before the Motor Carrier Commission for hearing in Burnaby, B.C. on Monday, August 25, 1986.

The applicant company, which is still to be incorporated, was represented by a company official, Mr. Gary Gurnam Singh also known as Gary Gurnam Bhola. The qualified objectors; Moonlite Express Ltd.

(Moonlite), and Vancouver Airline Cartage (1964) Ltd. (Vancouver Airline) were represented, respectively, by Ms. Nina Schmieder and Ms. Marlene Smith.

The applicant was seeking fifteen new Class III Public Freight-vehicle Licenses to provide a general freight courier type service generally within the Lower Mainland area with certain restrictions as to parcel weight and vehicle weight.

The principals of the applicant firm are former employees of Moonlite, who had a bitter disagreement with the management of that company over wages and related issues, which resulted in an action being taken in the Supreme Court of British Columbia by their employer.

Following these difficulties, an application was filed with the Commission by the former employees, who decided to incorporate their own company, and compete head-on for the same business with their former employer Moonlite.

Mr. Singh, on behalf of the applicant, which had filed some forty-two letters of support, called no shipper witnesses, but did take the stand himself to give sworn testimony as to his experience in the transportation business, his work with Moonlite, and his plans for the company.

Mr. Singh indicated in his testimony that he was not operating at the present time, but said that if the application were granted, he planned to provide an expedited, same day type of service. He took pride in the satisfaction expressed in the letters of support with his services (while he worked for Moonlite), and indicated that the authors of those letters intended to offer freight to the applicant if the licence were granted.

The objector, Moonlite, filed a number of exhibits relating to Mr. Singh's employment with them, as well as court documents and records. In addition, Mr. Singh was closely cross-examined as to his experience in the transportation business, his role in the problems Moonlite had with its employees, and his motives in seeking this licence.

The objector, Vancouver Airline, questioned the validity of the support material filed, the apparent lack of demand for the service to be offered, and raised, as well, the fact that not even one shipper witness was called by the applicant, which presented some difficulty both to the objectors and to the Commission in estimating the actual need for the service proposed to be offered.

In considering all of the information before it, the Commission finds that the case presented by the applicant, outside of the letters of support was exceedingly weak. Those letters of support, on close examination, were found to be very brief and lacked detail as to volumes and frequency of service. No evidence of lack of service, or inadequate service was presented.

In addition, the perplexing question of fitness was brought up. Conflicting sworn evidence was offered with respect to Mr. Singh's experience in the transportation business, his employment record, and certain other of his actions, the correctness of which could not be determined by the Commission. It was evident during the course of these proceedings that the bitter feelings that existed between some of the participants had not diminished.

Leaving fitness aside, which is not at issue, the Commission must, of necessity, adjudicate this application on its merits. On that basis, the Commission finds that the test of public need was not met and the granting of the application is not justified.

Accordingly, the Motor Carrier Commission orders that the application of Pioneer Express Ltd., published as No. 2448A/85, be and it is hereby *refused*.

It is further ordered that the applicant and the qualified objectors named herein be and they are each assessed fifty dollars in costs to be set off against the security deposits filed by them beforehand.

Approved by:

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

95-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 2601/85 (Part) of Peninsula Transport Ltd.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 9th day of September 1986.

ORDER

That part of the application of Peninsula Transport Ltd., published as No. 2601/85, seeking to authorize what is known in the trade as a "tractor service", came before the Motor Carrier Commission for hearing in Burnaby, B.C., on August 18, 1986.

The applicant was represented by Counsel, Mr. A. W. Basile. The two qualified objectors present, Pacific Freightways Ltd. and Overload Tractor Service Ltd., were represented by company officials respectively, Messrs. E. Walz and M. Chan. Dolphin Delivery Ltd., which had filed its security deposit, withdrew its opposition to the application before the hearing and did not participate therein.

Mr. Basile, in his opening address, noted that the application was limited in scope and that the service would only be provided generally to the Lower Mainland, and within that portion of Licence District No. 15 lying west of 200th Avenue on the north side of the freeway. This is in line with the area of authority just granted, also through application No. 2601/85, to provide a charter trip general freight service.

Besides filing a number of support letters, the applicant called one witness, Mr. R. Calbeck, its general manager, who testified that his firm generally operates primarily to and from the Sechelt Peninsula, but wishes to diversify and broaden its sphere of operation through this application, part of which was granted and part of which is being considered at these proceedings. He noted that several licensed carriers supported the application and that his firm was presently providing a tractor service to B.C. Rail, which service is exempt from regulation under the *Motor Carrier Act*.

The objectors indicated that most of their business originates from the Lower Mainland area and that there was not enough business presently for the licensed carriers, much less a new entrant into this field. They noted that no shipper witnesses had been called by the applicant, and indicated that, in their view, insufficient evidence of public need was shown. The application ought therefore to be refused.

The Commission, in carefully reviewing the information before it, has concluded, first, that the entry into the tractor service type of business by the applicant with the small number of vehicles contemplated would not have a significant impact on the operations of the objectors, who are well-established in the industry, and second, that sufficient evidence of public need was presented to justify the granting of the application.

Accordingly, the Motor Carrier Commission orders that that part of the application of Peninsula Transport Ltd., published as No. 2601/85, seeking to provide a tractor service, be and it is hereby granted in the manner shown hereunder:

"Engaging Carrier" when referred to herein shall mean any Motor Carrier licensed as a Public Freight Carrier under the *Motor Carrier Act* of British Columbia and/or *Motor Vehicle Transport Act* (Canada) who engages or hires Licensee with licensed vehicle or combination of vehicles for the purpose of transporting goods which cannot conveniently be transported on his own licensed vehicles.

SUBJECT TO RESTRICTIONS SET OUT HEREIN, TO TRANSPORT

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
General freight (charter trips)	For any licensed public freight carrier.	In accordance with the Conditions of Licence issued to the engaging Public Freight Carrier (scheduled or non-scheduled operation) which shall be produced for inspection upon request of any person authorized under the *Motor Carrier Act* and/or *Motor Vehicle Transport Act* (Canada).

Restrictions and special conditions:

(a) Licensee shall ONLY transport freight under authority of this licence to the order or under the direction of a public freight carrier licensed under the B.C. *Motor Carrier Act* and/or *Motor Vehicle Transport Act* (Canada).

(b) All freight transported under this authority shall be carried under Bills of Lading issued by or on behalf of and at rates filed by the engaging carrier, who shall be held responsible for the transportation.

(c) Operation under this licence shall be strictly in accordance with authority extended to the engaging carrier, but limited to service between points within an area comprised of that portion of Licence District No. 14, situated west of the Pitt River; Licence District No. 14A and that portion of Licence District No. 15 situated west of 200th Street in the Municipality of Langley, on the north side of Highway No. 1.

(d) A copy of the Conditions of Licence issued to the engaging public freight carrier, together with a letter issued also by the engaging carrier, shall be carried and made available for inspection by any person authorized to examine Conditions of Licence under the *Motor Carrier Act* and/or *Motor*

Vehicle Transport Act (Canada). Letter referred to shall be signed by engaging carrier or his agent and certify that licensee is under hire; shall indicate time and date of issue; and state duration of engagement.

(e) The service authorized herein is restricted to the towing of trailers and semi-trailers to the order and under the direction of a Licensed Public Freight Carrier.

It is further ordered that the applicant and the two qualified objectors who participated in the hearing be and each of them are assessed fifty dollars in costs, which amount will be set off against the security deposits filed by them beforehand.

It is further ordered that the security deposit filed by Dolphin Delivery Ltd., who withdrew its objection, be and it is hereby forfeit and is not to be returned.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

103-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 1359/86 of Can-Con Freight Systems Inc.

Before: G. M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.
Dated the 21st day of October 1986.

ORDER

The application of Can-Con Freight Systems Inc. (the applicant), published as No. 1359/86, to transfer to it all the motor carrier licence authority issued to and in the name of 108 Transport Ltd., came before the Motor Carrier Commission for hearing in Burnaby, B.C. on October 16, 1986.

The applicant was represented at the hearing by its president, Mr. George John Costello. No qualified objectors appeared and none were represented at the hearing.

The applicant filed three exhibits at the hearing, including a folder of support material, a file of Temporary Operating Permits, and current financial statements. In addition, three witnesses testified on behalf of the applicant.

The first witness called was Mr. O. B. Hansen, who spoke on behalf of both 108 Transport Ltd. (108) the transferor, and its parent company 108 Supply Ltd. Mr. Hansen testified as to the financial difficulties encountered by 108, which because of its heavy dependence for income on one-way hauls, was forced eventually to dispose of some of its running equipment and finally cease operations for a time. He advised that although all of the secured creditors have been paid, as well as most of the smaller local suppliers, 108 still owes approximately $250,000, including $138,000 to the parent company 108 Supply Ltd., which does not expect to be paid.

The second witness, Mr. J. French, told of his involvement in the transportation business as a driver and as a lease operator with 108, then with the applicant, and finally as a shareholder and employee with the applicant company. He outlined his responsibilities, reviewed the applicant's equipment, and outlined to some extent the plans of the company to continue in operation.

Mr. Costello, the final witness, discussed his role in the applicant company, which began when he became a consultant to 108, after which he filed the application presently under consideration in the name of his consulting firm. He expressed confidence that the operations of the applicant were financially viable. The applicant employed twelve people in an area of heavy unemployment, who he said would be out of work if the application were refused.

When he concluded his testimony, Mr. Costello amended the application by deleting therefrom the request to transfer to the applicant both Clause No. 1 (construction, logging and sawmill equipment) and Clause No. 2 (plywood, lumber, rough and finished) from the Conditions of Licence issued to 108 Transport Ltd. The amendment was formally approved by the Commission.

After taking into consideration all of the information presented at the hearing, and noting Mr. Costello's experience and knowledge of the transportation business, his apparent success in keeping the company operational and the support filed from a significant number of shippers, as well as the fact that not one

objector qualified to participate in these proceedings, the Commission has concluded that the application, as amended, ought to be granted.

Accordingly, the Motor Carrier Commission orders that the application of Can-Con Freight Systems Inc., published as No. 1359/86, be and it is hereby *granted as amended* at the hearing.

It is further ordered that the said applicant be and it is hereby assessed costs in the amount of $50, which amount is to be set off against the security deposit filed by the applicant beforehand.

Approved by:

G. M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

105-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Show Cause Hearing Pursuant to Section 9 of the *Motor Carrier Act*; and in the Matter of: (a) Bel-Air Taxi (1982) Ltd., (b) Coquitlam Taxi (1977) Ltd., (c) Port Coquitlam Taxi Ltd.; respondents.

Before: GERARD M. MORRIS, *Chairman*, Ian W. Craig, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 27th day of October 1986.

ORDER

The hearing at which Bel-Air Taxi (1982) Ltd., Coquitlam Taxi (1977) Ltd., and Port Coquitlam Taxi Ltd. (hereinafter referred to as the respondents) were required to Show Cause why all of the licences issued to them should not be cancelled for non-compliance with the provisions of the *Motor Carrier Act* and Regulations, came before the Motor Carrier Commission on September 24, 1986, and was completed on September 25, 1986.

Mr. Paul Sabatino appeared as Counsel for the respondents and Mr. Barry Dong appeared as Counsel for the Commission.

Following an investigation of information which indicated that the respondents were knowingly, wilfully and deliberately operating in violation of the *Motor Carrier Act* and Regulations, the Commission, by formal Notice of Hearing dated August 15, 1986, scheduled a Show Cause Hearing for September 24, 1986.

At the Show Cause Hearing, Counsel for the Commission filed as Exhibit No. 2 a Letter of Particulars dated August 18, 1986, containing details of 62 alleged violations. The alleged violations occurred in a one-week period between July 7, 1986, and July 13, 1986, inclusive.

Mr. Dong called two witnesses who gave oral evidence. These witnesses were Mr. R. Finlayson, Manager of Passenger Licensing at the *Motor Carrier Branch*, and Mr. D. Paquette, a Motor Carrier Inspector. Both witnesses testified as to their findings in conducting the investigation and appraising the extent to which violations had occurred during the period selected for examination, which investigation involved consideration of the licence authorities under which the respondents operated. Inspector Paquette dealt specifically with his attendance, together with another employee of the Motor Carrier Branch, at the offices of the respondent companies. He indicated that Mr. B. Dhillon, the general manager of the respondent companies, had co-operated fully in providing information and documents. Mr. Paquette noted that he had had some difficulty in documenting completely the total number of violations which might have occurred in the period selected because of the inadequacy of the records of the respondents. He further testified that Mr. Dhillon stated that the respondents were operating in contravention of the *Motor Carrier Act* and Regulations and intended to continue to do so.

Mr. Sabatino called two witnesses, Mr. B. Dhillon, general manager of the respondent companies, and Mr. J. Bell, a former employee of one of the respondents who had driven cabs and served as a dispatcher in various companies over a considerable period of time.

During his testimony on September 24, 1986, the first day of the hearing, Mr. Dhillon admitted that the respondent companies had been transporting passengers in violation of the *Motor Carrier Act* and Regulations, and that this practice had been going on for a number of years. He stated that they intended to continue

to operate in the same manner. He expressed the view that he had at times been uncertain what his licence authority permitted Bel-Air Taxi, in particular, to do, but recently he had sought a legal opinion which he believed advised him that Bel-Air had the right to pick up passengers anywhere in British Columbia. He also expressed the belief that special temporary permits granted by the Commission to serve the Expo site authorized his companies to pick up passengers anywhere in Vancouver which, in his view, was all "the Expo site".

In response to questioning by the Commission, he estimated that the illegal activities of the respondents amounted to ten percent of their total business.

Counsel for the respondents reviewed the 62 alleged violations with Mr. Dhillon and raised questions concerning 12 of them. Following that, counsel for the Commission withdrew entirely one allegation. The 11 others remained at issue, leaving 50 unchallenged.

On September 25, the second day of the hearing, Mr. Dhillon was recalled by counsel for the respondents and gave sworn testimony that on the previous evening he had issued a directive to his staff instructing them all to operate according to the terms and conditions of licence as interpreted by the Commission, this directive to be effective at midnight, September 24, 1986. He told the Commission that he had pursued the wrong course in conducting his operations and, in the future, fully intended to operate strictly in accordance with his Conditions of Licence and the requirements of the *Motor Carrier Act* and Regulations. He also revised from 10% to 1½% his estimate of the revenue derived from illegal activities of the respondents.

The second witness called by Counsel for the respondents, Mr. J. Bell, suggested that personnel of all taxi companies operated illegally to some extent, and picked up passengers in areas for which they were not properly licenced. He indicated that he himself had done this many times without being instructed to do so by his dispatcher.

In summation, Counsel for the Commission dealt with the rule of law and the responsibility of citizens to obey the laws of the country, and the responsibility of the Motor Carrier Commission to perform its duties pursuant to the *Motor Carrier Act*. He cited a number of cases involving certain individuals "taking the law into their own hands", and the reaction of the courts in each case. He also dealt with the evidence in general terms.

Mr. Sabatino, in summation, dealt with the scope of service, the number of employees, and the substantial investment of the Dhillon family in the three respondent companies. He also addressed the significant service provided to the public in the areas in which these companies are based, and the "community service" provided to the handicapped, senior citizens, and employees of the Postal Service; as well as service to drinking establishments, which tended to contribute to safety on the highways, certain specialized services performed under contract for tourist companies, and railway workers and longshoremen. He also referred to the growth of the respondents' business because of the expansion of the areas in which they are based. He asked the Commission to provide a clear definition of what the licence of Bel-Air authorizes the company to do, so that the principals of that company would no longer have any difficulty in determining which services they may or may not provide.

Mr. Sabatino also dealt with the nature of civil disobedience, a matter which was responded to in depth and completely by counsel for the Commission.

The Commission has carefully reviewed all of the information made available to it during the hearing and, in particular, the evidence provided by testimony and cross-examination, and the admissions made under oath by the principal witness for the respondents, and the summation of both counsel.

The Commission also weighed very carefully the part that any misinterpretation of licence authority may have contributed to the manner in which the respondents' operations were conducted.

The Commission makes the following Findings of Fact:

The respondents

1. Operate under one dispatch system but are not under the same ownership;
2. Provide employment to a significant number of people and have a substantial investment in taxi operations;
3. Appear to offer local communities in their authorized licensed areas an adequate service, and in so doing, have experienced a marked increase in business;
4. Cannot attribute this growth to illegal operations, which they finally testified amounted only to 1½% of their total business;
5. Interpreted certain licence authorities under which they operate in a most imaginative and illogical manner;
6. Have maintained records, particularly those relating to drivers and dispatch, which are, in many cases, illegible or undecipherable, and have failed to maintain proper documentation with respect to freight carried;
7. Have charged flat rates when their filed tariff does not include or permit such rates;
8. Have, for a period of years, engaged in illegal carriage of passengers;
9. In recent months have knowingly and wilfully operated without any regard for their licence authority, carrying any traffic convenient for them to carry;

10. Have benefitted in gross revenues secured from taxi services not authorized by their Conditions of Licence;
11. Showed a degree of contrition by assuring the Commission that, in future, they would operate fully within their licence authority, and by admitting publicly that the course of action they had pursued was wrong.

It is perfectly clear that the respondents have been in violation of their Conditions of Licence and have contravened the *Motor Carrier Act* and Regulations. In our society, disregard of the law cannot be countenanced and is offensive to the conduct of an orderly democratic society. The Commission has specific authority pursuant to the *Motor Carrier Act* to regulate motor carriers, and part of its responsibility under that legislation is to ensure that the Act is not violated.

In circumstances as flagrant as those apparent in this case, the Commission would normally be severe in its treatment of the perpetration of such violations. However, the respondents have shown a realization of the seriousness of the manner in which they violated the Act and, by agreeing before the hearing was finished, to completely stay within their Conditions of Licence in future, showed a measure of contrition. They also sought the assistance of the Commission by asking that their Conditions of Licence be clearly interpreted so that there will be no uncertainty as to what they are permitted to do and not permitted to do under that licence authority.

Accordingly, the Motor Carrier Commission orders that Clause A of the Conditions of Licence of Bel-Air Taxi (1982) Ltd., which reads as follows:

> The licence authorizes the operation of the motor vehicle as a limited passenger vehicle, and in the following manner, only:
>
> Terminal point from which vehicle may be operated: City of Port Moody
> City of Port Coquitlam
> District of Coquitlam
>
> Service that may be rendered: Charter trips only, for business originating within a distance of two (2) road-miles (3.2186 km) of the City of Port Moody; the City of Port Coquitlam; the District of Coquitlam, and the unorganized area beyond the City of Port Moody lying north of Burrard Inlet, east of Indian Arm, west of the District of Port Coquitlam, and south of an extension of the north boundary of the District of Coquitlam (legally described as that portion of Township 39 lying west of the District of Coquitlam, south of Township 4, and including township west of Township 39 and District Lot 256), carrying a person or group of persons under charter to any point in British Columbia.

In the interests of clarity and to prevent any further misunderstanding be and it is hereby amended to read as follows:

> Terminal point from which vehicles may be operated: City of Port Moody
> City of Port Coquitlam
> District of Coquitlam
>
> Service that may be rendered: Charter trips only for business originating within
>
> (a) the City of Port Moody;
> (b) the City of Port Coquitlam;
> (c) the District of Coquitlam;
> (d) the area described below:
> The area beyond the City of Port Moody lying north of Burrard Inlet, east of Indian Arm, west of the District of Coquitlam, and south of an extension of the north boundary of the District of Coquitlam (legally described as that portion of Township 39 lying west of the District of Coquitlam, south of Township 4 and including township west of Township 39 and District Lot 256);
> (e) any point within two road-miles of any of the above, (a), (b), (c), or (d);
>
> carrying a person or group of persons under charter to any point in British Columbia.

The Commission Further Orders That

(1) the licence authorities of each of the respondents, Bel-Air Taxi (1982) Ltd., Coquitlam Taxi (1977) Ltd., and Port Coquitlam Taxi Ltd., be suspended for a 10-day period, from November 21, 1986 through to November 30, 1986, inclusive;

(2) pursuant to section 9 (3) of the *Motor Carrier Act*, each of the respondents may elect as an alternative to the suspension to pay a pecuniary penalty, which must be paid forthwith to the Superintendent of Motor Carriers, in the amount of $100 for each day during which, but for this alternative, the suspension would be in effect;

(3) the respondents file with the Commission, six months from the date of this Order, and again one year from the date of this Order, affidavits by a knowledgable officer of each of them confirming, if such be the case, that they have not engaged in the transportation of passengers or freight contrary to their Conditions of Licence during the interim period;

(4) the respondents attend upon and take instruction from the Superintendent of Motor Carriers, or his delegate, with respect to the maintenance of proper and adequate records, including trip sheets, so

as to be in a position to comply fully with the requirements of section 16 of the *Motor Carrier Act* (Duty to Furnish Information) if requested by the Commission to do so;

(5) the respondents are assessed costs in the following amounts:

Bel-Air Taxi (1982) Ltd.	$2,672.12
Coquitlam Taxi (1977) Ltd.	2,362.20
Port Coquitlam Taxi Ltd.	1,514.10

to be paid to the office of the Superintendent of Motor Carriers forthwith:

(6) the respondents shall, at once, communicate to each of its officers and employees a copy of this Order, pursuant to section 19 (1) of the *Motor Carrier Act*.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

108-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Show Cause Hearing Pursuant to Section 9 of the *Motor Carrier Act;* and in the Matter of Sunshine Cabs Ltd., North Vancouver, B.C., Respondent.

Before: GERARD M. MORRIS, *Chairman* and GEORGE MUSSALLEM, *Commissioner.*

Dated the 28th day of November 1986.

ORDER

The hearing at which Sunshine Cabs Ltd. (the respondent) was to be given the opportunity to Show Cause why all of the licences issued to it by the Motor Carrier Commission should not be cancelled was convened in Burnaby, B.C., on October 22, 1986.

Counsel Mr. Peter Hyndman appeared on behalf of the respondent. Mr. Logan Stewart attended the hearing at intervals as general Counsel to the Commission, and Counsel, Mr. Barry Dong, who had been retained by the Commission to present the evidence gathered by the Motor Carrier Branch in connection with alleged violations of the *Motor Carrier Act* and Regulations by the respondent, was also in attendance.

Notice of Hearing dated August 22, 1986, setting this matter down to be heard on October 22, 1986, was mailed to the respondent by registered mail, pursuant to section 43 (2) of the *Motor Carrier Act*, and a Letter of Particulars was subsequently hand-delivered to the respondent's Counsel of record, Mr. Paul Sabatino, on September 10, 1986.

On October 20, 1986, two days prior to the scheduled date for the hearing, the Commission received a letter from Mr. Hyndman, indicating that he had recently been consulted by the respondent in this matter, and was acting for that respondent, but due to the need to adequately prepare for the hearing and having regard to his schedule, asked for an adjournment.

By letter dated October 21, 1986, to Mr. Hyndman, the Commission noted that the respondent had had notice of the proposed hearing for two months, and that the Commission had commitments for the alternative dates proposed by Mr. Hyndman for the commencement of the hearing, but indicated that it would be prepared to hear any further motions or submissions at the commencement of the hearing on the originally scheduled date of October 22, 1986.

When the hearing was convened on October 22, 1986, Mr. Hyndman submitted a letter to the Commission, stating that the Notice of Hearing "is a nullity", and if the hearing was proceeded with, he was instructed to seek appropriate legal remedies in the Supreme Court of British Columbia.

After hearing further representations from Mr. Hyndman and Mr. Dong, the Commission indicated it would grant a one week adjournment, but that the hearing would be proceeded with on October 29, 1986.

At the reconvening of the hearing on October 29, 1986, which continued for two full days, the respondent was represented by its president and general manager, Mr. Richard Hughes, who appeared without legal counsel but indicated that he was prepared to proceed.

Counsel Mr. Barry Dong was retained by the Commission to present the evidence gathered by the Motor Carrier Branch in connection with the alleged violations. Mr. Dong called five witnesses in this case. Mr. R.

B. Finlayson, Manager of Passenger Licencing for the Motor Carrier Branch, his first witness, generally reviewed the licence authority held by the respondent, which authorized it to provide a taxi-cab service, under charter, for business originating from the North Shore and, as of December 10, 1985, by a vice-versa arrangement, to carry passengers to the North Shore from other areas, provided that that service was restricted to charge customers only, or when firm arrangements had been made beforehand. In addition, the respondent was issued temporary Expo permits, enabling it to pick up passengers at any official Expo site during the term of Expo.

Mr. D. Paquette, an inspector with the Motor Carrier Branch for seven years, testified as to his findings when auditing the records of the respondent company. He indicated that one week of trip sheets numbering 344 in total was found to contain approximately 1,480 violations, which subsequently were included in the Letter of Particulars made available to Counsel of record for the respondent company. Even though Mr. Hughes had admitted at that time to Mr. Paquette that the respondent company was acting illegally, it was noted that Mr. Hughes did not withhold any records or information, and had been fully co-operative during the investigation.

Both Mr. L. Jamieson, inspector of vehicles for hire with the City of Vancouver, and Constable G. F. Hughes of the Vancouver City Police, discussed enforcement procedures generally and, in particular, certain tickets issued to the respondent for alleged violations of both the City bylaws and the *Motor Carrier Act*.

The final witness called by Mr. Dong was Mr. M. R. Rowden, Deputy Superintendent of Motor Carriers, who was only briefly questioned in rebuttal to certain statements made at the hearing.

Mr. Hughes called no witnesses but was sworn, and testified on behalf of the respondent company which had authorized him to give evidence. He testified that his company had picked up passengers in contravention of its licence authority for several years. He claimed that the entire taxi industry followed this practice and he believed that the Motor Carrier Branch and one Commissioner had "full knowledge" of the respondent company's activities in this regard. He further considered that such behaviour was tolerated or condoned. He did not challenge the alleged violations set out in the Letter of Particulars and did not present any documentation to disprove any of them. He did claim that a number were for service in his authorized territory and he assumed that some trips made for agencies of other provincial governments during the term of Expo, were exempt.

Under cross-examination, Mr. Hughes made the following admissions:

(a) Mr. Hughes was aware of the Letter of Particulars but had left that letter in the hands of his Counsel of record;

(b) At least 1,100 of the trips contained in the Letter of Particulars were carried out contrary to the Conditions of Licence of the respondent company during a one week period;

(c) The respondent company was operating illegally a few months after its licence authority was granted;

(d) The respondent company was, in fact, operating illegally at this particular time;

(e) The decision to operate illegally was made by the Board of Directors and that decision was unanimous;

(f) The respondent took the position three years prior to June of 1986 to operate illegally;

(g) The respondent issued specific instructions to its drivers and employees in June of 1986 to accept "flags" if there were no other Vancouver cabs available.

It should be noted that during the course of the hearing, Mr. Hughes put forward two formal motions seeking to adjourn the hearing to a later date, or seeking to adjourn the hearing to a later date to be heard in conjunction with his company's application for regional licensing, both of which were denied after being given due consideration by the Commission. He also indicated that if a Cease and Desist Order were issued, his company would obey such a directive.

In summation, Mr. Dong referred to the admissions of Mr. Hughes, and noted that the law was broken without any sign of contrition on his part. His attitude was defiant and contemptuous of the *Motor Carrier Act* and Regulations. Mr. Dong noted that the respondent had begun operating illegally shortly after its licence authority was initially granted. He reviewed the procedures the Commission had practiced in making Mr. Hughes aware of these proceedings, and in presenting the then Counsel of record with full particulars of the alleged violations.

Mr. Dong referred to the rule of law and the manner in which the respondent had knowingly and wilfully ignored its Conditions of Licence and by so doing had broken the law. Mr. Dong stated that no-one has the right to make a unilateral decision as to whether or not to break the law, as any such action has potential for anarchy, and he referred to a number of authorities which had made decisions in respect to the rule of law and the observance of law. Speaking to a decision, Mr. Dong suggested that the Commission had very little choice but to cancel the licence authority of Sunshine Cabs Ltd. as long as there was continued defiance of the Commission by the respondent.

In his summation, Mr. Hughes reiterated his previous assertion that the entire taxi industry was operating illegally with the full knowledge of the Motor Carrier Branch, as well as the Commission. He noted that he had been lulled into a false sense of security because he expected and was led to believe that there would be changes in the law which would permit the respondent to pick up passengers anywhere in Greater Vancouver. He had pressed for such a change but to no avail. He intended to pursue the matter and seek

assistance from anyone who would help him to bring the regulations up to date. His company, he asserted, was providing an excellent service and there was a constantly growing demand from other areas to utilize its service.

Mr. Hughes stated that it would be grossly unfair to arrive at a decision with respect to this matter before his firm's application for regional licensing had been considered. Cancellation of his firm's licence would result in a loss of investment and the loss of a great number of jobs. Sunshine, he said, would pursue every legal, political and appeal remedy available to it to see that the licences were not cancelled.

In closing, Mr. Hughes requested that a *cease and desist Order* be issued, which he said would be obeyed, and he again asked that a decision be deferred until such time as the application for regional licensing had been considered. In the interval, Mr. Hughes indicated that he would actively and vigorously garner support for that application.

The Commission has carefully reviewed all of the evidence before it, including the testimony of the witnesses at the hearing, the exhibits filed, and the transcript of the proceedings. Based on all of that information, the Commission has made the Findings of Fact which follow:

1. The respondent provides a quality taxi service insofar as class and condition of vehicles, attitude and service of drivers, are concerned;
2. The respondent admitted, under oath, that within a few months of securing its motor carrier licence, it made trips beyond the scope of authority issued by that licence;
3. The respondent stated that, at the present time, fifty percent of the service provided was not authorized by its licence authority, and that as early as 1983 it was in constant and substantial violation of its licence authority;
4. All of the testimony presented by the respondent was unsupported and, in some cases, called the credibility of the witness, Mr. Hughes, into question;
5. Not one of the 1,480 individual allegations of violations of authority occurring in a one-week period between July 6, 1986, and July 12, 1986, was refuted;
6. The respondent admitted, under oath, that at least 1,100 of the violations could not be challenged.

It is obvious from the very damaging admissions made by Mr. Hughes under oath that extensive, deliberate, and serious violations of the respondent's operating authority have taken place. The respondent company has not shown any contrition, has offered no apologies for its behaviour, nor has there been any sign that the illegal activities have been voluntarily brought to a halt.

In the circumstances, the Commission has no alternative but to take stern measures with respect to this licensee. At the same time, the Commission must take into consideration the excellent service offered by the respondent to the North Shore, and the effect on that community and the employees of the respondent company if its licences were cancelled.

Accordingly, the Commission orders as follows:

(i) Seven (7) of the respondent's twenty-eight licensed vehicles which are to be designated by Mr. Hughes, its general manager, shall be suspended entirely from service for the period January 17, 1987, to January 31, 1987, inclusive, and the motor carrier licence plates of the suspended vehicles surrendered by the respondent, which shall have the said plates delivered to the Motor Carrier Branch at 4240 Manor Street, Burnaby, B.C., prior to 9 a.m. on Monday, January 17, 1987;

(ii) The remainder of the respondent's fleet of vehicles shall be suspended for a period of 10 days from January 19, 1987, to January 28, 1987, inclusive;

(iii) Pursuant to section 9 (3) of the *Motor Carrier Act*, the respondent may elect as an alternative to the suspension of the vehicles referred to in Paragraph (ii) above to pay a pecuniary penalty to the Superintendent of Motor Carriers in the amount of $100 for each day during which, but for this alternative, the suspension would be in effect;

(iv) The respondent shall file with the Commission six months from the date of this order and again one year from the date of this Order, affidavits by a knowledgeable officer, confirming, if this be the case, that it has not engaged in the transportation of passengers contrary to its Conditions of Licence during the interim period;

(v) The respondent shall immediately *Cease and Desist* from providing any transportation services which are in contravention of its existing motor carrier licence authority;

(vi) The operations of Sunshine Cabs Ltd. shall be monitored by the Superintendent of Motor Carriers for a period of two years from the date of this Order;

(vii) The respondent is assessed costs in connection with this hearing in the amount of $12,047.08, to be paid forthwith to the Superintendent of Motor Carriers;

(viii) The respondent shall, at once, communicate to each of its officers and employees a copy of this order, pursuant to section 19 (1) of the *Motor Carrier Act;*

(ix) Failure on the part of the respondent to comply with any portion of this Order may result in the reconvening of this Show Cause Hearing.

Approved by:
G. M. MORRIS
Chairman
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

117-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review by the Motor Carrier Commission of its decision concerning the Application of Bridger Transportation Inc., Published as No. 1859/86.

Before: G. M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 12th day of December 1986.

ORDER

The application of Bridger Transportation Inc. (the applicant), published as No. 1859/86, which had been refused on September 26, 1986, came before the Motor Carrier Commission for review on December 4, 1986.

The applicant was represented at the review hearing by Mr. D. Hammell, a motor carrier consultant. The objectors: Motrux Inc., and Reimer Express Lines Ltd. were represented by company officials, respectively, Messrs. J. Marshall and R. Burmaster.

Mr. Hammell made a brief opening address, in which he indicated that certain support material which had not been available at the time the application had previously come before the Commission, would now be filed. Following that, five letters of support were circulated to those present; four from shipper witnesses and one from a supplier.

No shipper witnesses were called by the applicant, but three officials from the applicant company testified as to the need that they perceived for the services sought to be licensed. It was disclosed during that testimony that the applicant has a facility, including a leased terminal and yard in the U.S.A., out of which it dispatches twenty lease operators. It also has an office in Canada and employs one lease operator. The services presently provided are on a north-south basis as permitted by the applicant's existing Conditions of Licence and Authority, but there is a desire on the part of the applicant to expand its service to the east, thus the application. It was indicated that some freight destined for Alberta had been tendered to the applicant.

The two objectors present strenuously opposed the application on the basis that the east-west lane of traffic was very heavily over serviced at the present time. It was suggested by the objectors that the support filed with the application was very scant, and did not indicate a public need for additional service.

The Commission notes that this application was orginally refused because of lack of support, and finds as a fact that there was very little more evidence presented at the review hearing. The five letters of "support" gave no indication as to the volumes of freight that would be tendered to the applicant, nor the frequency upon which the applicant would be called to provide service.

The applicant has failed entirely, in this particular case, to present sufficient evidence to justify the granting of the very extensive application under consideration.

Accordingly, the Motor Carrier Commission orders that its previous decision in this matter of September 26, 1986, refusing the application of Bridger Transportation Inc., published as No. 1859/86, be and it is hereby *confirmed*.

Approved by:

G. M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

118-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 2980A/85 of Cardinal Coach Lines Ltd.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 12th day of December 1986.

ORDER

The application of Cardinal Coach Lines Ltd. (the applicant), published as No. 2980A/85, came before the Motor Carrier Commission for hearing in Burnaby, B.C., on December 1, 1986.

The applicant was represented by Messrs. Stan Weber, its vice-president, and Barry Stock, its sales manager. The objectors were represented as follows: Greyhound Lines of Canada Ltd. and its wholly-owned subsidiary, Brewer Transport Co. Ltd., by Counsel, Mr. Tobin Robbins; International Stage Lines Inc., Perimeter Transportation Ltd., and Dicken Bus Lines Ltd., by company officials, respectively, Messrs. Peter Dakha, Jim Wilkinson, and Ken Dicken. Vancouver Tours and Transit Ltd., which did not qualify as an objector because of a failure on its part to file a $50 security deposit in time, did not appear, and was not represented at the hearing.

The applicant, which now holds charter trip authority to transport a person or group of people under charter (originating in Alberta) from the B.C./Alberta or the B.C./U.S.A. border delivered to any point in British Columbia, or through British Columbia and return if arranged for on the same charter, as well as limited passenger authority out of Fernie, B.C., was seeking by this application the following additional authority:

> As a limited passenger vehicle transporting passengers, charging individual fares, for sightseeing, educational, literary, athletic, social or pleasure tours, originating in Alberta, in intermodal one way service (originating in or terminating in Alberta)
>
> (a) From the B.C./Alberta border to the Vancouver International Airport at Richmond with stops at various points in B.C.;
>
> (b) From the Vancouver International Airport at Richmond to the B.C./Alberta border with stops at various points in B.C.

The applicant called no witnesses, except for its representatives at the hearing, both of whom were sworn and took the witness stand together. In addition, a book of exhibits was filed by the applicant containing various related documentation, including copies of operating authorities, vehicle lists, brochures, and a number of letters of support.

Messrs. Weber and Stock indicated in their testimony that the applicant company is a family-owned, medium sized operation, with its head offices located in Calgary, and operates a fleet of some 440 units. It has extensive licence authority in Alberta and charter authority in the U.S.A., as well as licence authority in B.C. as indicated, and in Ontario. The company is diversified to the extent that it is involved in the transportation of airport passengers, industrial workers, and school children, and also does charter work as well as escorted tours. It has an entirely separate division solely engaged in the operation of escorted motor coach package tours.

The purpose of this particular application is to permit the company to engage in the operation of intermodal tours between Calgary and Vancouver. Passengers on tour would travel between Calgary and Vancouver by air one way and by bus the other way. It was intended that the applicant's tours division would sell tour packages to individual passengers, who would then travel either by air to the coast from Alberta and return by bus, or to the coast by bus and return by air. All tours would originate in Calgary, Alberta. This would permit the most efficient use of buses as they would be travelling fully loaded each way.

The Commission queried the exact nature of the service to be offered, in particular with respect to the origin of the passengers, the age of the passengers to be transported, and the possibility of offering one way service. No clear answers were given, but it was suggested by the applicant's witnesses that the Commission might wish to revise, amend or add restrictions to the application to make it more acceptable to the Commission and to the objectors present.

Greyhound and Brewster presented one witness, Mr. Raymond Norman Parke, vice-president of Greyhound, in charge of sales and traffic. Mr. Parke stressed the heavy involvement Greyhound has in British Columbia in terms of employees, the facilities it operates, and the extensive chain of independent agents it has established, as well as the scheduled and charter service provided in British Columbia. He indicated that there was more capacity than demand for bus service in B.C. at the present time, and noted that the demand curve projections were flat going into 1987. He noted, as well, that the applicant presently has charter service authority in B.C. and in his view the application ought to be refused.

That was generally the same position taken by the other objectors present, who did not call any witnesses themselves, but did cross-examine the applicant's witnesses and summarized their positions at the conclusion of the hearing. They felt that there was more than enough service available at the present time and the service applied for was neither required nor was it adequately supported.

Mr. Robbins, in his final argument, concurred with the viewpoint expressed by the other objectors and indicated that the granting of the application would have very serious effects on his client. He noted that Greyhound serves many small communities, a service that does not pay for itself, but is cross-subsidized to some extent by the profitable operations of the company, such as charter service. The Commission, he felt, should not allow the applicant through this "fuzzy" application to "skim" customers from B.C. He noted that the applicant has indicated it will not employ even one person in this Province.

Mr. Webber, in his summation, suggested that the major problem appeared to be in the wording of the application, and that perhaps some restriction might be added thereto as to the number of vehicles to be licensed, the age of the passengers, or perhaps the source of the passengers to be transported. He noted that

the applicant had not intended to mislead the Commission in any way. He argued that the Motor Carrier Commission's duty was not to protect B.C. carriers. While his firm would not employ any people in B.C., the proposed tours would certainly generate tourist dollars, which in turn would create indirect employment, primarily in the hospitality industry. He stressed the vital importance to B.C. of the tourist industry, and asked that the application be generally granted.

After carefully reviewing all of the information and evidence before it, the Commission has concluded that the application, as worded, ought not to be granted, but that some additional authority, based on the interpretation by the Commission of the intention of the applicant, ought to be approved.

Accordingly, the Motor Carrier Commission orders that the application of Cardinal Coach Lines Ltd., published as No. 2980A/85, be and it is hereby *refused*.

It is further ordered that the said applicant be and it is hereby granted the following additional authority:

Transporting passengers (members of a tour group) each of whom shall have individually purchased directly from Cardinal Coach Lines Ltd. a package tour developed and sold by them, which includes air transportation one way and bus transportation the other way on tours, all of which shall originate in Calgary, Alberta:

(a) From the B.C./Alberta border transported to the Vancouver International Airport in Richmond, B.C., with stops at various points en route;

(b) From the Vancouver International Airport in Richmond, B.C., transported to the B.C./Alberta border with stops en route.

Restriction:

The pick up of passengers in B.C. for discharge in B.C. is prohibited.

It is further ordered that:

(a) the applicant is restricted to the operation of a maximum of two vehicles in this service; and

(b) the applicant and the qualified objectors present be and each of them are assessed $50 in costs to be set off against the security deposits filed by them beforehand. The security deposit filed by Vancouver Tours and Transit Ltd., who was not present, is to be refunded.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

121-86

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of a Review by the Motor Carrier Commission of its decision concerning the Application of Kurt Adelborg and Donald William Johnston, Published as No. 3209/85.

Before: GERARD M. MORRIS, *Chairman* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 16th day of December 1986.

ORDER

The application of Kurt Adelborg and Donald W. Johnston (the applicant), a partnership, published as No. 3209/85, which had previously been refused on July 4, 1986, came before the Motor Carrier Commission for review in Duncan, B.C., on December 11, 1986.

The applicant was seeking licence authority to provide a taxicab service in a very large area comprising Duncan and all of the areas of North Cowichan and territories situated within five miles therefrom.

The applicant was represented at the hearing by Mr. Donald W. Johnston, one of the partners. The objectors present, Duncan Taxi Ltd. and C. L. Krabseth d/b/a Saltair Cab Service, were represented by company officials, respectively, Mr. Alan Lawson and Mr. Krabseth.

Prior to the hearing, Mr. Johnston had filed a long written submission to the Commission which argued generally that under the Charter of Rights it was his inalienable right to make a livelihood in the taxi industry.

At the hearing, Mr. Johnston took the witness stand himself, but did not call any other witnesses in support of his application. He informed those present that he had been a plumber, but could not return to that type of employment because of a back injury. He indicated that he had considerable experience in the taxi

business and that his sons who were taxi drivers would assist him in providing a twenty-four hour service if the application were granted. He held that Duncan Taxi Ltd. had a monopoly and that competition would improve service. He indicated, as well, that by Nanaimo standards there were not enough taxi cabs operating in the Duncan area and pointed out that in the past there had been two or even three competing taxi firms in the area.

During the course of his testimony, he re-filed a letter of support from the City of Duncan, as well as a letter from the District of North Cowichan which pointed out that they would not support any individual taxi company, but wished the venture success. A six page petition supporting the application, which Mr. Johnston stated had been compiled over a two day period, was also made an exhibit at the hearing.

Duncan Taxi Ltd. called one witness in presenting its case and relied as well upon the testimony of Alan and Sandra Lawson, its owners, who were both sworn and jointly took the witness stand.

They noted that they had taken over the operation of Duncan Taxi Ltd. in May, 1986, and had made a number of improvements both to the vehicles and to the service. Their fleet of 11 cabs are driven by fully experienced persons who know the area and the customers. Most calls are responded to within ten minutes, but during extremely busy times (such as on welfare days) there may be occasions when there are delays of up to half an hour. Many times during the week three or four cabs can provide all of the service required.

In their view there was more than enough service available at the present time and the area could not, in the present economic circumstances, support a new taxi company. They noted that the letter of support from the City of Duncan was dated before they had taken over the company, and filed a letter dated October 17, 1986, from the City officially noting the improved external appearance of the taxi cabs, and indicating that they had not received any complaints regarding the service of Duncan Taxi Ltd.

Mr. Stevenson, the former owner of Duncan Taxi Ltd., generally reviewed the history of the taxi business in Duncan, and stated that the reason for the amalgamation of the several taxi firms previously operating was based on economics. Because of fixed expense faced by the companies in providing service, such as dispatch costs, they had been forced to merge or become one.

The Commission, after carefully considering all of the information before it, and after reviewing the exhibits filed at the hearing, finds the following facts:

1. The area of service applied for by the applicant appears to be adequately served at the present time, there being a number of competing companies each serving part of the area in which the applicant proposes to provide a service;
2. The comparison of a per capital ratio of taxi cabs between the North Cowichan area and the City of Nanaimo fails to comprehend the concentrations of population and the difference in the areas;
3. No substantial evidence of any shortage in service or undue delays was presented to the Commission.

In light of these facts, the Commission has concluded that at the moment there does not appear to be justification for granting the application.

The Commission orders, therefore, that its previous decision refusing Application No. 3209/85 of Kurt Adelborg and Donald W. Johnston be and it is hereby *confirmed*.

Approved by:
G. M. MORRIS
Chairman
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

3-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Competing Applications for Motor Carrier Licence Authority of

(a) Martin S. Hart d/b/a/ Drum Cartage Moving and Storage, Published as No. 1828/86; and

(b) Complete Moving Services Ltd., Published as No. 1860/86.

Before: GERARD M. MORRIS, *Chairman*, and IAN W. CRAIG, *Commissioner*.

Dated the 4th day of February 1987.

ORDER

The application of Martin S. Hart d/b/a Drum Cartage Moving and Storage (Drum), published as No. 1828/86, and Complete Moving Services Ltd. (Complete), published as No. 1860/86, came before the Motor Carrier Commission for hearing in Victoria, B.C., on January 19, 1987.

At the outset of the hearing, Mr. D. L. Armstrong, Counsel for Complete, confirmed the applicant's intention, which had been conveyed previously to the Commission on the last business day prior to the hearing, to withdraw its application entirely.

Subsequently the hearing continued, but with Drum formally moving to amend its application by deleting therefrom that portion identified as Clause No. 7, seeking authority to provide an expanded household goods service restricted to goods which have been or are to be carried by R. McCargar Trucking Ltd. d/b/a/ Admiral Moving. The motion to amend was approved by the Commission.

Drum was represented by its owner/manager, Mr. "Marty" S. Hart. Five objectors: Williams Moving & Storage (B.C.) Ltd., Stocker's Security Storage & Warehouse Ltd., Greaves Moving & Storage Ltd., Weather "B" Transport Co. Ltd., and Fairfield Movers & Storage Ltd., were represented respectively by company officials, Messrs. R. A. McLeod, B. Aylesworth, R. H. Greaves, B. Bevan and C. C. Hemstreet.

Mr. Hart, in presenting his case, first made an opening address, and after being sworn, testified on his own behalf. He read into the record some of the comments contained in approximately 300 form letters filed by him, which he felt indicated not only satisfaction with the service provided by his firm, but also represented expressions of support for the application. He told of the success and growth his firm had experienced since it commenced service in the Greater Victoria exempt area some years' ago, and maintained that the excellent service provided was the reason why his firm had prospered while some of the other local movers had suffered decline. Mr. Hart also filed some additional support material made up of company literature, photos, policy manuals, and forms. No other witnesses were called by the applicant.

The objectors cross-examined Mr. Hart with respect to his testimony, during which he admitted that some thirty per cent of the moves performed by his firm were, in fact, illegal. He also admitted that he did not turn down any business (because of lack of licence authority) and that his firm had been given four fines for violations, two of which had not yet been settled.

Only one witness was called by the objectors, that being an official of a moving company, who testified that he had not turned down any business recently and had, in fact, been forced to lay off additional staff.

In summation, the objectors generally put forward the proposition that there are already enough licensed households goods movers on Vancouver Island and no more licences should be granted at this particular time. It was suggested as well that Mr. Hart and his firm had no respect for the *Motor Carrier Act* and Regulations and on these grounds alone, the application ought to be refused.

In his final summation, Mr. Hart suggested that the population of the Greater Victoria area had grown and more service therefore ought to be made available. People desired a more competitive spirit on Vancouver Island and his firm could provide such a service at a moderate price.

The Commission was not particularly impressed with the quality of the case presented, either by the applicant or by the qualified objectors. The application was quite wide in scope, yet scant information was provided by the applicant and very little data was submitted indicating the number of moves performed. No reference was made to lack of service, difficulty in obtaining service, poor service, or delays in providing service. The objectors presented no documentation or financial data to indicate that business was down, that they were suffering financial difficulties, or that the granting of the application would cause the objectors to limit or cut back on the services provided by them.

The Commission has some very serious concerns in respect to the attitude of the applicant to regulation in general and to the provisions of the *Motor Carrier Act* in particular. Under cross-examination Mr. Hart made some very damaging admissions as to his illegal activities. He candidly admitted that thirty per cent of his total business was the result of providing services that are not authorized under his present licence authority and attached Conditions of Licence. Although it appears that the company provides an excellent service and has carved out its own particular niche in the marketplace, its cavalier attitude and the disdain of its owner-manager for the law cannot be tolerated.

Accordingly, the Motor Carrier Commission makes the following order:

(1) The licence authority of Martin S. Hart d/b/a Drum Cartage Moving & Storage, be and it is hereby suspended for ten days from March 16, 1987, to March 25, 1987, inclusive;

(2) Pursuant to section 9 (3) of the *Motor Carrier Act*, Martin S. Hart d/b/a Drum Cartage Moving & Storage, may elect as an alternative to the suspension, to pay a pecuniary penalty in the amount of $100 for each day during which, but for this alternative, the suspension would be in effect;

(3) Martin S. Hart d/b/a Drum Cartage Moving & Storage, file with the Commission six months from the date of this Order and again one year from the date of this Order, affidavits by a knowledgeable officer of that company confirming, if such be the case, that it has not engaged in the transportation of freight contrary to its Conditions of Licence during the interim period.

It is further ordered that the application of Martin S. Hart d/b/a Drum Cartage Moving & Storage, published as No. 1828/86, as amended at the hearing, be and it is hereby refused, except for the following additional clause which, in the view of the Commission, was justified by the evidence presented at the hearing, and which clause is therefore granted:

Commodities to be carried:	*For whom to be carried:*	*Area, route or territory:*
Goods usually used in a dwelling as part of the equipment or supply of such dwelling (household goods), and goods being property and effects of an intending farm settler when forwarded with household goods in mixed van loads (settlers' effects). Furniture, fixtures, equipment and property generally used in the furnishing and equipping of stores, offices, museums, institutions, hospitals or other similar establishments, when being transported for the purpose of furnishing and equipping such establishments but not for resale in the ordinary course of business. Works of art, musical instruments, furnishings, displays and exhibits which, because of inherent characteristics require transport in specially equipped vehicles usually employed in the moving of household goods. Electric typewriting machines, electronic computers, television and radio transmission equipment, X-ray equipment, electron microscopes, photocopy equipment, including accessorial equipment and component parts of each, where the inherent characteristics of such goods require specialized handling and transport by specially equipped vehicles usually employed in the moving of household goods. Goods of all kinds which have been or are to be stored in warehouses owned or controlled by the licencee when being transported into or out of these warehouse facilities solely as a part of a storage service and not as part of a service for the wholesale or retail sale or distribution of such goods. Also any wheeled vehicles owned or leased by or for the shipper when transported in conjunction with household goods and settlers' effects. (Charter trips).	For one individual or company only at any one time.	From any point within 30 road miles of Victoria to any point within 200 road miles of Victoria (on Vancouver Island only).

With respect to costs, the Commission makes the following order:

(a) Martin S. Hart d/b/a Drum Moving & Storage, and the five qualified objectors who participated in the hearing, are each assessed $50 in costs to be set off against the security deposits filed by them beforehand;

(b) Complete Moving Services Ltd., who were notified of these proceedings by Notice of Hearing dated November 6, 1986, but did not inform the Commission until the last business day prior to the hearing that the application would be withdrawn, is assessed $250 in costs, against which the $50 security deposit paid by them beforehand is to be offset. The balance of $200 is to be paid to the Superintendent of Motor Carriers *forthwith;*

(c) The security deposits paid by the objectors to the application of Complete Moving Services Ltd. (Williams Moving & Storage (B.C.) Ltd., Sidney Movers & Storage Ltd., Stocker's Security & Warehouse Ltd., Greaves Moving & Storage Ltd. and Weather "B" Transport Co. Ltd.) are to be refunded.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

10-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 1866A/86 of Hunterline Trucking Ltd.

Before: IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner.*

Dated the 20th day of February 1987.

ORDER

The application of Hunterline Trucking Ltd. (the applicant), published as No. 1866A/86, came before the Motor Carrier Commission for hearing in Burnaby, B.C. on February 16, 1987.

The applicant was represented by its general manager, Mr. L. Watson. The qualified objectors, Reimer Express Lines Ltd., Arrow Transportation Systems Inc., and G.H. Trucking (1985) Ltd., were represented by company officials respectively Messrs. R. Burmaster, R. Smith and B.M. Knutson.

The objectors, Commercial Truck Co. Ltd./Intermountain Transport Ltd., and Motrux Inc., were disqualified because of failure on their part to fullfill their obligation under Regulation 4.16 (1) (b) to mail to the applicant a copy of their statement of objections. The objectors, Tiger Transport Ltd. and Dolphin Delivery Ltd., who had filed the required $50 security deposit failed to appear at the hearing and were not represented.

The applicant, through this application, was seeking to add five new clauses to its existing Conditions of Licence, including two limited freight clauses, two rather extensive clauses, one to transport lumber and related products, the other to transport grain and related products, both from point to point within the Province, and one very extensive clause to transport general freight (excluding used household goods, foodstuffs for human consumption, and liquids in bulk) from any boundary of the Province of B.C. to any point in B.C., or vice versa.

The applicant indicated through its representative Mr. Watson that the application was housekeeping in nature designed primarily to simplify, clarify and condense its Conditions of Licence, as well as to remove the possibility of misinterpretation of the intent and scope of the licence authority held. Mr. Watson admitted that at the same time the company was seeking to broaden its authority so as to remove the need to apply for permits, and to be able to provide a more complete and efficient service to its existing customers.

The applicant requested that if the application were granted in the terms applied for, Clauses Nos. 1–25 inclusive, which duplicate the additional new clauses and authority being sought, would therefore be redundant and could be deleted.

Mr. Watson called no witnesses in support of the application, but did file several exhibits, including forty new letters of support and a book containing corporate information, which made reference to the applicant's terminal facilities, its running equipment, and copies of its licence authorities, both inside and outside the Province, as well as in the U.S.A. Mr. Watson also gave sworn testimony with respect to the history of the applicant company and the rationale behind the application.

In his testimony Mr. Watson also stressed the problems he was having with enforcement people, such as weigh scale personnel, who had some difficulty in interpreting the company's extensive Conditions of Licence (some thirty-two clauses), which interpretation often differed from his. He indicated that his company had received a number of tickets in 1986, but had only a few convictions. He indicated as well that he had operated extensively under Temporary Operating Permits, which fact supported his request for

additional authority, but had a problem at times in getting the permits to the vehicles involved (in order to comply with the requirements of the *Motor Carrier Act*).

Three objectors cross-examined Mr. Watson with respect to his testimony, gave some evidence themselves, and summed up at the conclusion of the hearing.

In summing up, the objectors generally took the position that no public need had been demonstrated, no evidence of poor service or lack of service had been introduced, and on that basis alone the most contentious portions of the application ought to be refused. They expressed the opinion that such an extensive application ought to have been supported by live witnesses, whose testimony could be tested through cross-examination.

The Commission, in coming to its decision with respect to this particular application, has carefully reviewed the testimony, exhibits and the summations presented at the hearing.

The application is extensive in nature and while the Commission has some sympathy with the applicant's desire to have its Conditions of Licence condensed by adding general freight and deleting therefrom a number of existing clauses, it has not been convinced by the evidence presented that a case has been made for general freight. The Commission is of the view, however, that a reasonably good case has been made for the other portions of the application.

Accordingly, the Motor Carrier Commission orders that the application of Hunterline Trucking Ltd., published as No. 1866A/86, be and it is hereby *granted* except for Clause No. 1 (general freight), which is *refused*.

It is further ordered that the Superintendent of Motor Carriers arrange with the applicant to delete any dormant clauses from the applicant's Conditions of Licence, as well as any licence authority rendered unnecessary, or which is duplicated by virtue of the additional authority herein granted.

It is further ordered that:

(a) the applicant and the qualified objectors who participated in the hearing be and they are hereby each assessed costs in the amount of fifty dollars ($50) to be set off against the security deposits filed by them beforehand;

(b) the security deposits filed by objectors Commercial Truck Co. Ltd./Intermountain Transport Ltd. and Motrux Inc., who failed to qualify, be refunded; and

(c) the security deposits filed by Tiger Transport Ltd. and Dolphin Delivery Ltd., who failed to appear at the hearing and were not represented, are to be forfeited.

Approved by:

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

12-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 1649/86 of Atomic Interprovincial Transport (Eastern) Ltd.

Before: GERARD M. MORRIS, *Chairman*.

Dated the 27th day of February 1987.

ORDER

The application of Atomic Interprovincial Transport (Eastern) Ltd. (the applicant), published as No. 1649/86, came before the Motor Carrier Commission for hearing in Burnaby, B.C., on January 26, 1987. The hearing was completed on January 28, 1987, with final argument being presented on February 19, 1987, at the Commission Offices in Vancouver, B.C.

The applicant was represented by Counsel, Mr. D. LaCharite. The sole objector, Mercury Express Ltd., was represented by company officials, Messrs. M. Budinsky and/or J. Deppiesse.

After an opening address, Mr. LaCharite presented an audio-visual display covering the history, present operation and prospects for expansion of the applicant company. One corporate witness and 24 shipper witnesses were called by Mr. LaCharite. This testimony was enhanced by a number of descriptive exhibits and a substantial number of letters of support.

Mr. H. W. Lakey, vice-president of the applicant company, informed the Commission as to the scope, operations, terminals and employee population of Atomic Interprovincial Transport (Eastern) Ltd. He also outlined the extensive motor carrier licence authority held in other provinces of Canada and in the U.S.A. The

24 shipper witnesses represented a variety of companies and products, a number of them controlling the movement of very large volumes of freight. They outlined the manner in which they would use the applicant and, at the same time, many related their previous experience with and complete satisfaction with the services of the applicant. Reference was made during testimony and examination of the advantage of a "triangle" type of operation involving movements from east to west in Canada and north to south between Canadian points and the U.S.A. Such movements provided not only good utilization of equipment but offered many more points of service to shippers on a frequent basis.

The final argument of the cases was set for February 19, 1987. On that date the applicant appeared and presented argument, but no representative of the qualified objector appeared to offer argument.

During argument, Mr. LaCharite highlighted particulars of the testimony of the shipper witnesses, the quality and fitness of the applicant company, and the advantages which would accrue to British Columbia by virtue of new terminal facilities and employment if the application were granted. He noted that at the hearing there had been no objections to the east/west portion of the application and only one objector appeared to express concern over the north/south portion. He also made some suggestions tending to support that portion of the application seeking to acquire authority to transport products other than food products which ostensibly required temperature control. He did not, however, formally move to amend that particular portion of the application.

The Commission, in considering carefully all of the evidence presented at the hearing, including the testimony given, exhibits filed, and summation presented by the applicant, makes the following Findings of Fact:

1. The applicant is a substantial carrier, obviously fit, willing and able to provide a highly acceptable service to a large number of shippers in Western Canada and between other points in Canada and in the U.S.A.;
2. The applicant is well supported by qualified and enthusiastic shipper witnesses and a substantial number of letters of support;
3. The applicant has a significant volume and mix of equipment to enable it to serve a variety of shippers;
4. The applicant presented considerable justification for obtaining substantial B.C. authority but not totally compelling with respect to all the authority sought.

The Commission orders, therefore, that

(a) the application of Atomic Interprovincial Transport (Eastern) Ltd., published as No. 1649/86, be and it is hereby refused;

(b) the said applicant be and it is hereby granted the following licence authority:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
(a) Meat, fish and poultry, fresh or frozen; food processed and nonprocessed; food products, confectionery, block and cube ice; (Charter trips)	One individual or company only at any one time.	From Licence Districts 14, 14A and 15, and that portion of Licence District 8 up to and including Hope, B.C., transported to the B.C./Alberta and B.C./U.S.A. border; or vice versa;
(b) Printing inks, chemicals, and hydraulic fluid; (Charter trips)	As above	As above
(c) Horticultural products, insecticides, herbicides and fungicides; (Charter trips)	As above	As above
(d) Construction material and supplies (requiring machine loading or unloading); (Charter trips)	As above	As above
(e) Lumber and plywood; (Charter trips)	As above	As above
(f) Paper, paper products, packing materials and building hardware; (Charter trips)	As above	As above

It is further ordered that the applicant in these proceedings and the sole objector be and they are each assessed costs in the amount of $50, this amount to be set off against the security deposits filed by them beforehand.

Approved by:
GERARD M. MORRIS
Chairman

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission